

**HAMPTON ZONING BOARD OF ADJUSTMENT
MINUTES
Thursday, June 19, 2008**

Members Present

Tom McGuirk, Chairman
John Gebhart
Vic Lessard
Bill O'Brien
Bryan Provencal

Others Present

Joan Rice, Secretary

Chairman McGuirk called the meeting to order at 7:00 p.m.

Chairman McGuirk introduced the members of the Board.

The Pledge of Allegiance was said.

PETITION SESSION

20-08 The continued petition of John M. Tinios Revoc Trust, Galley Hatch Enterprises Inc. and Michael & Katherine Tinios for property located at 321 Lafayette Road seeking relief from Article 4.8 to replace the existing cinema with a pharmacy/retail building combining both lots in the process, which will result in a reduction in the impervious surface but still exceed the 85% limit. This property is located at Map 175, Lots 13 and 20 in a B/POR zone.

Attorney Peter Saari, Casassda & Ryan, and Joe Coronado of Jones & Beach Engineers came forward. Attorney Saari said they had come back with redrawn plans. They reduced the building size, reduced the impervious surface, removed some parking, and thus they no longer needed any variances.

Questions from the Board

Mr. Lessard said they all had met with Father LaRochelle regarding the drainage at the church. Solutions were good for the town and for the church. Father LaRochelle was pleased. There will be a new fence rather than a gate.

Mr. O'Brien asked if other issues discussed last month, which are under the purview of the Planning Board, are being taken care of. Attorney Saari replied that they are.

Mr. O'Brien said he wanted to make sure the parking was correct. On last month's plan 255 total spaces are indicated in the table and on the revised plan there are 275 spaces. Mr. Coronado replied that the first plan did not include the parking at Citizens Bank. Mr. O'Brien asked if the cross easements were recorded for all four lots. Attorney Saari replied that they were. Mr. O'Brien said he would suggest doing a recalculation of the parking needs and accommodations before going before the Planning Board ... it appears that the recent addition to the Galley Hatch is not accounted for in the total of required parking spaces and about 20 slots were eliminated in lots 13 and 20 since last month's submission.

Chairman McGuirk said that since no variance is needed, the Zoning Board does not need to take any action.

Moved by Mr. Lessard, seconded by Mr. Provencal, to allow the Petitioners for Petition 20-08 to withdraw without prejudice.

VOTE: 5-0-0. Motion passed unanimously.

22-08 WITHDRAWN

23-08 The Petition of Diane Wolenski & Brian Cull, Trustees for property located at 16 James Street seeking relief from Articles 4.5.1 and 4.5.3 to remove the existing house and garage and construct a new house with integral garage which would not meet the front and rear setbacks but would be in closer conformity than the existing buildings. This property is located at Map 152, Lot 8 in a RA zone.

Attorney Saari and Phelps Fullerton, designer of the new plans, came forward. Mr. Fullerton said this property is at the very end of James Street. There are two structures on the property, an old house and an old garage. The house has many violations and the garage has front and side setback violations. The house is old and outdated. The applicants have given this a lot of thought and feel the garage should be integrated with the house.

Mr. Fullerton said the existing structure encroaches on all four setbacks. They are attempting to move all the buildings so that they would fit within a 7-1/2 foot front and rear setback. The style of the house is traditional New England. Off street parking is provided and there are two spaces in the attached garage. It will also be possible to add a wheelchair ramp for the applicant's mother. The square footage of the existing building is 1,760 sq. ft. and the new is 2,650 sq. ft. Deck space has been cut back. There will be

no basement in the new plan. The present structure has a basement which is not permitted by FEMA.

Questions from the Board

Mr. Gebhart asked about the height of the structure. Mr. Fullerton said the height is 34'11" which is in compliance with the limit of 35'.

Mr. Gebhart asked how far the structure would be from the high tide line. Mr. Fullerton said about 85 feet which is well beyond the 50 foot buffer.

Comments from the Audience

Alex Costello, 4 Beach Plum Way, came forward. Mr. Costello said he is an abutter. He said he thinks it is wonderful that the petitioners want to build a new home, but he did not feel all the criteria were satisfied. He said he felt this was just too much house and would be contrary to the public interest. The proposal would do nothing to remedy setback violations. Mr. Costello said there is some hardship for the petitioners, but this proposal would create a hardship for the abutters. Mr. Costello said the house is not consistent with the other houses in the area where the garages are beneath the homes, not adjacent.

Norma Collins, 6 James Street, came forward. She said rebuilding can cause a lot of disruption – portable potties, dumpsters, trucks parked everywhere. She said the other problem is sea water. Water comes right down James Street.

Tom Broderick, 8 Beach Plum Way, came forward. He said he applauded the efforts to put a new home at this location. The plans are beautiful, but totally disregard the rest of the neighborhood. Drainage would also cause problems. This is way too much house for the lot size. They are requesting a 7-1/2 foot variance where there should be 20 feet. It could be a safety concern. The house does not conform to the neighborhood.

Attorney Saari said that before anyone concludes that this house is not in keeping with the neighborhood they should look at photos of the neighborhood. All the houses to the right are very substantial. The petitioners are trying to improve on the variances. Parking is always a problem at the beach and is not the petitioners' problem.

Back to the Board

Mr. O'Brien said if this house was at the other end of the street, furthest away from the ocean, coming that close to the road would not bother him. In this case, the views of the neighbors on James Street are being blocked since the 20 foot setback is not being met.

Chairman McGuirk stated that the applicant could have a change of address from James Street to Beach Plum Way and thus change the front 20 foot setback from the south side of the lot to the west side.

Mr. Fullerton said one of the key elements was accessibility to the first floor. They did not want to exactly reflect the home next door. In this plan, the first and second floors sit much closer to the ground. This affords the neighbors more privacy.

Mr. Lessard said he felt this is too big a house and the petitioners should talk to their neighbors. Mr. Fullerton said that the square footage of the new house is not much different than Mr. Costello's house. Chairman McGuirk said the outside dimensions are much bigger than Mr. Costello's.

Diane Wolenski, the property owner, came forward. She said the question seemed to be that the house was too large. They had considered putting the garage under the house, but it was not practical.

Mr. Lessard said he would like Ms. Wolenski to go back and talk to the neighbors and that he was not prepared to vote on this at this time.

Attorney Saari said they would like to come back with a new plan with less bulk and would like to come to the August meeting.

Moved by Mr. Lessard, seconded by Mr. O'Brien, that Petition 23-08 will be reviewed at the August 21st meeting and will be first on the agenda.

VOTE: 5-0-0. Motion passed unanimously.

24-08 The petition of 20 Keefe Avenue Realty Trust for property located at 20 Keefe Avenue seeking relief from Articles 2.3.7C-a2, 4.1.1, 4.2, 4.5.2, 8.2.2, 8.2.3, 8.2.4 and 8.2.6 to construct eight 1 bedroom, 1 story cottages. This property is located at Map 290, Lot 68 in a RB zone.

Attorney Saari said this proposal is to build eight small cottages which are one-story with one bedroom. He said the lot area is tricky. Because there are wetlands you cannot use all the area. There is no frontage and it is 2-1/2 feet short on side setbacks. The previous project was a three-story building which was approved. This new proposal fits in better with neighborhood density.

Questions from the Board

Mr. Lessard asked if these were going to be condos. Attorney Saari said they were.

Mr. Gebhart asked if DES had been contacted. Attorney Saari said yes and that this will be a long process. This will create an issue at some point.

Comments from the Audience

Tom Senoseta, 21 Manchester, came forward. He said he would be very happy to have something other than a parking lot in the space. He said his only concern is that the land level is higher than the lots on either side and asked how the water runoff would be taken care of.

Attorney Saari said he didn't know at this point. There will be a drainage study. Chairman McGuirk said this was a Planning Board issue.

Back to the Board

Mr. O'Brien said the highest tide line was 7 feet from Unit #1. In order to meet the 50 foot State setback, he suggested building only half the number of cottages. Attorney Saari said this was a possibility.

Chairman McGuirk said he much preferred the original proposal, a beautiful building and exactly what Hampton Beach needs. He said he worried about the cottages being practical. Attorney Saari said no one is interested in doing the original proposal.

Moved by Mr. Lessard, seconded by Mr. Provencal, to grant Petition 24-08 with the stipulation it would be in the condominium documents that all the cottages would be kept the same.

Chairman McGuirk asked the Board if they felt the five criteria had been met. The members replied that they did.

VOTE: 4-0-1 (McGuirk). Motion passed.

25-08 The petition of John Kelley, Trustee, KBAD Realty Irrevocable Trust, for property located at 1 Nudd Avenue seeking relief from Articles 1.3 and 4.5.3 to rebuild stairs in the same location less than 1 foot from rear boundary line where 4 feet is required. This property is located at Map 282, Lot 43 in a BS zone.

Attorney Robert Casassa, Casassa & Ryan, came forward. Attorney Casassa said petitioners were seeking a variance to reinstall a staircase which had deteriorated and become unsafe. Attorney Casassa went over the five criteria and said he felt they had been met.

Questions from the Board

There were no questions from the Board.

Comments from the Audience

Donald LaCourse, 326 King Street, came forward. Mr. LaCourse said he was a direct abutter to the south. He said there is ample room on the east, west and north sides for the stairway. When you take a non-conforming stairway out, you should not replace it. He also indicated that the stairs encroached on his property. Mr. LaCourse was advised that the petitioner had provided a certified plot plan that showed the stairs would remain on the petitioner's property.

Back to the Board

Mr. Lessard said that as long as the stairway is on the petitioner's property, he would be for approving it. Attorney Casassa said the reason for coming before the Board was because the stairway had already been torn down.

Chairman McGuirk asked if the door from this stairway serviced the kitchen. Attorney Casassa replied that it did. Chairman McGuirk said if the door doesn't service the kitchen it is a definite problem.

Moved by Mr. Lessard, seconded by Mr. Gebhart, to grant Petition 25-08.

Chairman McGuirk asked the Board if they felt the five criteria had been met. All members replied that they did.

VOTE: 5-0-0. Motion passed unanimously.

26-08 The petition of William Giovagnoli for property located at 89 Kings Highway seeking relief from Articles 1.3 and 4.5.2 to replace existing side deck and stairs with a two story addition without deck. Construct a new interior set of stairs to the second floor where the side setback will be 7'5" in lieu of required 10' within the RA zone. This property is located at Map 196, Lot 21 in a RA zone.

William Gaiovagnoli came forward and explained that this property has a spiral staircase which is very dangerous. He wants to take this out and replace it with a new interior set of stairs by enclosing the deck area on the South side of the house. Mr. Gaiovagnoli went through the five criteria and said he felt they had been met.

Questions from the Board

Mr. O'Brien said the proposed plan shows 7.0 feet for the side setback at the front of the deck and the existing plan shows 8.8 feet. Mr. Gaiovagnoli said that a new survey was done and the 8.8 feet was not correct.

Comments from the Audience

There were no comments from the audience.

Back to the Board

Mr. O'Brien asked if this would remain a single family house. Mr. Gaiovagnoli said that it would.

Moved by Mr. Provencal, seconded by Mr. Gebhart, to grant Petition 26-08.

Chairman McGuirk asked the Board if they felt the five criteria had been met. All members agreed that they had.

VOTE: 5-0-0. Motion passed unanimously.

27-08 WITHDRAWN

28-08 The petition of Richard and Patricia Higgins, through Roland Janvrin, for property located at 119 Kings Highway seeking relief from Articles 4.4 and 4.5.2 to allow the height of the building to be 6 inches above the limit and to allow a cover over a side entrance that is just under 6 feet from the side line. This property is located at Map 197, Lot 6 and Map 111, Lot 1 in a RA zone.

Attorney Peter Saari and Roland Janvrin came forward. Attorney Saari went over the five criteria and said he felt they had been met.

Questions from the Board

There were no questions from the Board.

Comments from the Audience

There were no comments from the audience.

Back to the Board

Moved by Mr. Provencal, seconded by Mr. Gebhart, to grant Petition 28-08.

Chairman McGuirk asked the Board if they felt the five criteria had been met. All members agreed that they had.

VOTE: 4-0-1 (O'Brien). Motion passed.

29-08 The petition of Virginia Realty, LLC for property located at 17 Barbour Road seeking relief from Articles 4.2 and 4.3, as well as Footnote 22 to re-subdivide two existing tracts to create 3 new lots, all of which will meet all dimensional requirements except for frontage and lot width on one of the lots. This property is located at Map 129, Lot 1 and Map 111, Lot 1 in a RA zone.

Attorney Peter Saari and John Goodwin came forward. Attorney Saari said these are two long lots and the petitioner wants to subdivide them. The new lot 1 has nothing on it now and will have nothing on it when the project is completed. No variance is needed to create that lot. Lot 2 has a house on it. No variance is needed for that lot. The third lot needs variances.

Questions from the Board

Mr. O'Brien said he would vote against this application since the criteria had not been met with regard to Footnote 22. Mr. Provencal said he would rather see this done than a development of houses.

Comments from the Audience

There were no comments from the audience.

Back to the Board

Moved by Mr. Provencal to grant Petition 29-08. There was no second to the motion.

Attorney Saari then requested to withdraw without prejudice.

Moved by Mr. Lessard, seconded by Mr. Gebhart, to allow Petition 29-08 to be withdrawn without prejudice.

VOTE: 5-0-0. Motion passed.

BUSINESS SESSION

Adoption of Minutes – May 15, 2008

Moved by Mr. Lessard, seconded by Mr. Gebhart, to adopt the Minutes of May 15, 2008 as amended.

VOTE: 5-0-0 Motion passed.

Chairman McGuirk presented a letter from Edmund St. Pierre asking to be considered as an alternate board member. Mr. St. Pierre works in the control room with the Cable Committee. There was discussion that it would not create a good perception to the audience if an alternate were taken from the control room.

Mr. O'Brien said Mr. St. Pierre could be scheduled as an alternate for certain months and at those times he would not work in the control room even if his services were not needed.

Moved by Mr. Lessard, seconded by Mr. O'Brien, to appoint Edmund St. Pierre as an alternate to the Zoning Board of Adjustment.

VOTE: 5-0-0. Motion passed.

The Business Session was adjourned at 10:35 p.m.

Respectfully submitted,

Joan Rice
Secretary